HOUSE BILL REPORT
HB 1672

As Reported by House Committee On:
Commerce & Labor
Appropriations

Title: An act relating to reducing injuries among patients and health care workers.

Brief Description: Requiring hospitals to establish a safe patient handling committee.

Sponsors: Representatives Conway, Hudgins, Green, Cody, Appleton, Morrell, Wood, McCoy, Kenney, Moeller and Chase.

Brief History:
Committee Activity:
Commerce & Labor: 1/30/06, 2/1/06 [DPS];
Appropriations: 2/4/06 [DPS(CL)].

Brief Summary of Substitute Bill

- Requires hospitals, including state hospitals, to establish a Safe Patient Handling Committee and a written patient care activities program that addresses patient handling.
- Requires the patient care activities program to include a no manual lift policy, employee training, and performance evaluations to determine the program's effectiveness in preventing musculoskeletal disorder claims.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 5 members: Representatives Conway, Chair; Wood, Vice Chair; Hudgins, Kenney and McCoy.

Minority Report: Do not pass. Signed by 3 members: Representatives Condotta, Ranking Minority Member; Chandler, Assistant Ranking Minority Member and Holmquist.

Staff: Sarah Dylag (786-7109).

Background:

The Department of Labor and Industries (Department) administers and enforces the Washington Industrial Safety and Health Act (WISHA). The WISHA directs the Department to adopt rules governing safety and health standards for workplaces covered by the WISHA.

Washington is a "state plan state" under the federal Occupational Safety and Health Act (OSH Act). As a state plan state, Washington is authorized to assume responsibility for occupational safety and health in the state. To maintain its status, Washington's safety and health standards must be at least as effective as those standards adopted or recognized under the OSH Act.

In 2003, the Occupational Safety and Health Administration (OSHA) adopted voluntary guidelines for nursing homes, including recommendations for nursing home employers to help reduce the number and severity of work-related musculoskeletal disorders in their facilities. These guidelines recommend that (1) manual lifting be minimized in all cases and eliminated when feasible; and (2) employers implement an effective ergonomics process covering specified topics. These guidelines state that they are advisory and do not create any new employer duties under the OSH Act. They also suggest that other employers, such as hospitals, assisted living centers, and homes for the aged or disabled would find the guidelines useful.

The Department, through its Safety and Health Achievement Recognition Program, conducted a nursing home study to assess the impact of implementing various interventions intended to reduce workers' compensation claims among employees performing patient handling duties. The study results were issued in 2003, with findings indicating that although zero lift programs could reduce some injuries, there were barriers to sustained zero lift programs.

In 2005, at the request of the House Commerce and Labor Committee, the Department convened a task force to examine lifting programs and policies. The Department reported the findings of the task force to the House Commerce and Labor Committee in January 2006. In the report, entitled "Lifting Patients/Residents/Clients in Health Care," the task force did not make recommendations, but concluded, in part, that:

- manual handing of patients has been recognized as hazardous for caregivers and patients;
- the hazards of manual handling can be reduced by a programmatic approach that includes:
    - policies for risk assessment and control;
    - having adequate types and quantities of equipment and staffing;
    - ongoing patient handling training;
    - management commitment and staff involvement;
    - incident investigation, follow-up and communication.

Summary of Substitute Bill:

The Legislature finds that mechanical lift programs can reduce injuries suffered by patients while being lifted, transferred, or repositioned, and that health care workers lead the nation in work-related musculoskeletal disorders. The Legislature also finds that hospitals in Washington have nonfatal employee injury rates higher than those in several other high-risk

industries and that the physical demands of the nursing profession lead many to leave the profession.

By February 1, 2007, hospitals, including state hospitals, must establish a Safe Patient Handling Committee (Committee). At least half of the Committee members must be frontline non-managerial employees who provide direct care to patients. (State hospitals are those that are operated and maintained by the state for the care of the mentally ill, and include the facilities at Western State Hospital, Eastern State Hospital, and the Child Study and Treatment Center.)

By December 1, 2007, these hospitals must also establish a written patient care activities program. The program must address patient handling with input from the Committee to prevent musculoskeletal disorders among health care workers and injuries to patients. This program must include:

- implementing a no manual lift policy for all hospital shifts and units;
- conducting a patient handling hazard assessment, which should consider patient-handling tasks, types of nursing units, patient populations, and patient care areas;
- developing a process to identify the appropriate use of the no manual lift policy based on the patient's physical and medical condition, except when use of the policy is contraindicated for a particular patient. In those cases, hospitals must document the reasons for the exemption. The documents must be retained by the hospital and made available for review by the safe patient handling committee and the Department; and
- conducting an annual performance evaluation of the program to determine its effectiveness in reducing musculoskeletal disorder claims and related lost work days, and to make recommendations.

By January 30, 2010, these hospitals must complete the acquisition of all needed equipment and train staff on policies, equipment and devices as they are implemented and at least annually or as changes are made to the patient care activities program or type or make of equipment being used.

"No manual lift policies" are hospital protocols to replace manual lifting, transferring, or repositioning of patients identified by the patient care activities program with lift teams or mechanical lifting devices, engineering controls, and equipment.

These provisions do not preclude lift team members from performing other assigned duties.

If a hospital employee refuses a patient care activity because of concerns about either employee or patient safety or the lack of trained lift team personnel or equipment, the employee is not subject to discipline based on that refusal.

Substitute Bill Compared to Original Bill:

The substitute bill adds delayed implementation dates for the hospitals. The substitute bill requires that half of the Safe Patient Handling Committee members must be frontline non-managerial employees who provide direct care to patients. The substitute includes language

about situations where use of the no manual lift policy may not be appropriate for a particular patient.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: (In support) This is a timely bill that should be considered. Nurses can be injured from repeated lifting. When a nurse gets hurt, he or she is then unavailable to work, which contributes to a lack of nurses in the workforce. There is a nursing shortage and nurses are leaving the profession. Continued injury to nurses should not be allowed to occur because it just adds to this shortage.

In addition, moving patients can be harmful to the patients themselves. There are injuries that result from dropping patients, skin tears, and other types of injuries. Nurses face moving people in a wide variety of situations and there are moving difficulties with a wide variety of patients, including patients with broken bones, patients who are elderly, patients with burns, and patients who are scared or combative. The lifting is "beyond human capacity" and lifting injuries are preventable. Using equipment such as ceiling lifts has proven to be valuable with patients. Internationally, other countries are already using this sort of equipment.

The people of Washington have waited for hospitals to implement no-manual lift policies. Hospitals will never want mandates, but the people of the state need high quality, safe, and efficient health care.

There has been work on this bill, including working on a phase-in for the hospitals. There is also work being done to address the issue of funding and the costs to the hospitals.

Testimony Against: The concepts of this bill can be supported, but it has been proven that a voluntary approach works. One hospital has had a committee formed since 1998, with half of the members frontline employees and half managerial employees. The hospital has established policies, purchased equipment, and worked with an ergonomic specialist to analyze all job sets. Equipment purchases for this hospital have equaled at least $1,000,000 in the last year for stand/sit machines and ceiling lifts. For total coverage it would cost $750,000 to $800,000.

Hospitals want to reduce injury, regardless of whether there is a bill that requires them to do so. Hospitals prioritize safety and patient lifting. Hospitals recognize that there is a shortage of staff and an aging workforce. However, there is concern with a regulatory approach. Too many regulations, or regulations that are different than what hospitals are already doing, will impede work.

Hospitals need a voluntary culture of safety and the flexibility to design their own programs. In addition, a real barrier is the initial cost of acquiring equipment. The fiscal note shows a conservative estimate when it shows $36 million. Hospitals also need time to implement these policies and time to weigh competing priorities.

No other state has established mandates like the ones imposed in this bill. There is a version of a law from Texas, but it is not a mandate.

Persons Testifying: (In support) Maggie Flanagan, Washington State Nurses Association; Sharon Ness and Jeri Donahue, United Food and Commercial Workers; Chris Barton, Service Employees International Union Local 1199; and Lani Su.

(Information only) Steve Cant, Department of Labor and Industries.

(Opposed) Beverly Simmons, Brenda Suiter, Dan Donohoe, and Lisa Thatcher, Washington State Hospital Association.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill by Committee on Commerce & Labor be substituted therefor and the substitute bill do pass. Signed by 16 members: Representatives Sommers, Chair; Fromhold, Vice Chair; Cody, Conway, Darneille, Dunshee, Haigh, Hunter, Kagi, Kenney, Kessler, Linville, McDermott, Miloscia, Schual-Berke and P. Sullivan.

Minority Report: Do not pass. Signed by 14 members: Representatives Alexander, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; McDonald, Assistant Ranking Minority Member; Armstrong, Bailey, Buri, Chandler, Clements, Grant, Hinkle, Pearson, Priest, Talcott and Walsh.

Staff: Amy Skei (786-7140).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Commerce & Labor:

No new changes were recommended.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: Taking care of others' families has jeopardized my ability to care for my own. Injury from the manual lifting of patients is the number one health care worker injury. Health care workers lead in muscular-skeletal injury rates. Manual patient lifting is banned in many countries. In manually moving patients we run the risk of dropping patients and injuring

them. Nurses move people in these situations every day without the tools to move them. If volunteerism was working, I wouldn't be here today. Literature shows that lifts pays for themselves in one to three years. It costs $20,000-$60,000 to train a new nurse. This will help us keep nurses, save money on Labor and Industry (L&I) payments, and save money on training new nurses. The Veterans Administration system uses this and saves a lot of money. We are in the midst of a critical nursing shortage. We believe the fiscal note costs are overstated; some equipment is already in place at the state hospitals.

Testimony Against: We are working very hard to ensure hospitals address lifting issues. It would be better to work collaboratively and bring about a culture change. We oppose mandated equipment purchases. If there has to be a policy mandate, we would prefer it be in the Department of Health rather than L&I. Less than half of the state's hospitals are covered in this fiscal note estimate. Please don't mandate a lifting component without addressing cost mitigation issues. Incentives would be a better approach than mandates.

Persons Testifying: (In support) Chris Barton, Service Employees International Union 1199 North West; and Maggie Flannigan, Washington State Nurses Association.

(Opposed) Lisa Thatcher, Washington State Hospital Association.

Persons Signed In To Testify But Not Testifying: None.